



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,824	11/07/2000	Edward Howorka	P/3331-111	1358
7590	11/28/2006		EXAMINER	
STEVEN I. WEISBURD, ESQ. DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 1177 AVENUE OF THE AMERICAS - 41ST FLOOR NEW YORK, NY 10036-2714			BEACH, THOMAS A	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/707,824	HOWORKA, EDWARD
	Examiner Thomas A. Beach	Art Unit 3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07/13/06.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9-60 and 64 is/are rejected.
- 7) Claim(s) 61-63 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. Claims 9-27, 30-52, 54-60, and 64 are rejected under 35 U.S.C. 102(e) as being anticipated by Lupien et al 5,101,353. Lupien shows a process for displaying quotes on a trader screen in an automated system that includes a plurality of traders with some having bilateral credit with one another (those being trading counterparties; claim 30) displaying a quote by a first trader and providing indication of the quote being accepted by more than one but less than all of the counterparties (fig. 2) as a percentage compared to the total number that is above 25%, since 78% is shown in figure 2 (col. 8, lines 1-18; claims 14-16, 20, 25-27, 41-42, 45, and 49-51). Lupien shows (fig 2 & col. 8, lines 10-18) that the first trader's trading counterparties can accept the first traders' quote if it is the best available (claims 10, 19, 21, 34, 38, 46 and 56) if it is the best price available (claims 11, 22, 35, 39, 47 and 57-60) or equal in price to another quote that is first in time relative to another quote (claims 12, 23, 32, 36, 40, 44 and 48). Lupien shows the traders having bilateral credit with one another that is determined in real time in order to remain a trading counter party (abstract; claims 13, 24). Lupien shows the determination of the number of trading counterparties, determining a percentage who can accept the quote and providing the indication to the first trader when the percentage is greater than or equal to a predetermined percentage and determining the number of counterparties who can accept the quote and comparing that number to the total number where the trading floor contain one or more individuals and the trading floor

grants credit to the other trading floor “auto-traders” 72/76 (claims 17, 43, and 54) and the traders are individuals 38 (claims 18, 31, 55, and 64).

***Claim Rejections - 35 USC § 103***

2. Claims 28, 29, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lupien et al 5,101,353 in view of Nevo et al 5,946,666. Lupien does not display the percentage of those with bilateral credit; however, Nevo is a similar process for displaying quotes on a trader screen in an automated system where the percentage of yields are displayed as a visual performance factor. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lupien, as taught by Nevo, to display the percentages of possible traders historically thus in a graphical format, to improving the visual information from which a trader can make an informed yet decisive decision to trade or not.

***Allowable Subject Matter***

3. Claims 61-63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments filed 07/13/06 have been fully considered but they are not persuasive. Applicant's arguments are noted; however, in order for a trading order to be

completed there must be a counterparty, therefore the percentage of orders that are able to be confirmed also reflects the percentage of trading counterparties for this particular entity. Furthermore, this issue of the "percentage of counterparties" is not persuasive relative to claims 9-13, 17-19, 34-40, 43, 44, and 59-64 and since these claims do not include this element/function.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

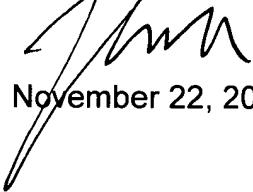
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Beach whose telephone number is 571.272.6988. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571.272.6998. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas A. Beach



November 22, 2006

**THOMAS A. BEACH**  
**Primary Examiner**  
**Group 3600**